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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,970	11/13/2001	Takashi Yamada	11501	6392

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EXAMINER

LE, DANH C

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/986,970	Applicant(s) YAMADA ET AL.	
	Examiner DANH C LE	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-5, 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin (US 6,366,791).

As to claim 1, Lin teaches a distribution system (figure 2), comprising:
a server (40) holding content data and a ringing tone, and distributing said content data and said ringing tone in accordance with a distribution request for said content data; and

a cellular phone (20) transmitting the distribution request for said content data to said server, and receiving said ringing tone together with said content data from said server.

As to claim 2, Lin teaches the distribution system according to claim 1, wherein said cellular phone transmits authentication data in accordance with a request for transmission of the authentication data from said server, and receives said content data and said ringing tone in response to authentication of said authentication data being verified by said server (col.3, lines 58-65).

As to claim 3, Lin teaches the distribution system according to claim 1, wherein said server extracts and regenerates a ringing tone in response to the distribution request for said content data, and transmits the regenerated ringing tone to said cellular phone, and

said cellular phone transmits the distribution request for said ringing tone to said server in response to the distribution request for said ringing tone being entered (col.3, lines 31-57).

As to claim 4, Lin teaches the distribution system according to claim 1, wherein said cellular phone receives said ringing tone only when the distribution request for said ringing tone is transmitted to said server (col.3, lines 31-57).

As to claim 5, Lin teaches the distribution system according to claim 1, wherein said content data is music data, and

said server distributes to said cellular phone, as said ringing tone, a tune related to music data for which the distribution request is issued (col.4, lines 12-29).

As to claim 9, Lin teaches the distribution system according to claim 1, wherein a user of said cellular phone only pays a price for said content data to said server (col.3, lines 57-65).

2. Claims 10, 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee (US 6,418,330).

As to claim 10 Lee teaches the cellular phone receiving a zinging tone together with content data from a server holding said content data and said ringing tone (figure 3 and col.3, line 36-col.4, line 9), comprising:

- a transmission/reception unit (300) communicating with said server;
- a memory unit (330) storing said content data and said ringing tone;
- a ringing tone generating unit (360);
- a key operation unit (340) for entering an instruction; and
- a control unit (320),

said control unit transmitting a distribution request for said content data entered from said key operation unit to said server via said transmission/reception unit in response to said distribution request, inputting said content data and said ringing tone received via said transmission/reception unit into said memory unit, and setting said received ringing tone to said ringing tone generating unit,

said ringing tone generating unit generating said set ringing tone when said control unit receives a normal call via said transmission/reception unit.

As to claim 16, Lee teaches the cellular phone according to claim 10, wherein said content data is music data, and

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said control unit receives a ringing tone determined based on a category to which requested music data belongs (user can input his favorite music).

As to claim 17, Lee teaches the cellular phone according to claim 10, wherein said control unit receives said content data and said ringing tone while no telephone call is in process (col.3, lines 1-6).

As to claim 18, Lee teaches the cellular phone according to claim 10, wherein said control unit reads said received ringing tone from said memory unit in accordance with a request for setting a ringing tone entered via said key operation unit, and supplies the read ringing tone to said ringing tone generating unit (col.3, lines 58-col.4, line 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (6,366,791).

As to claim 6, Lin teaches the distribution system according to claim 1, wherein said content data is music data, Lin fails to teach the server distributes to said cellular phone, as said ringing tone, a part of music data for which the distribution request is issued at least a predetermined number of times. The examiner take Official Notice that the distribution request is issued at least a predetermined number of times is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of a predetermined number of times into the system of Lin in order to enhance system performance of the musical ringing tone on mobile station.

4. Claims 7, 8, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (6,366,791) in view of Lee (US 6,418,330).

As to claim 7, Lin teaches the distribution system according to claim 1, wherein said content data is music data, Lin fails to teach said server distributes to said cellular phone a ringing tone determined based on a category to which requested music data belongs. Lee teaches server distributes to said cellular phone a ringing tone determined based on a category to which requested music data belongs (user enter the category which he like). The examiner take Official Notice that the distribution request is issued at least a predetermined number of times is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to provide the teaching of Lee into the system of Lin in order to enhance system performance of the musical ringing tone on mobile station.

As to claim 8, the combination of Lin and Lee teaches the distribution system according to claim 1, wherein said cellular phone receives said content data and said ringing tone from said distribution server while no telephone call is in process (Lee, col.3, lines 1-6).

As to claim 11, the limitation of the claim is the same limitation of claim 2; therefore, the claim is interpreted and rejected as set forth as claim 2.

As to claim 12, the limitation of the claim is the same limitation of claim 4; therefore, the claim is interpreted and rejected as set forth as claim 4.

As to claim 13, the limitation of the claim is the same limitation of claim 3; therefore, the claim is interpreted and rejected as set forth as claim 3.

As to claim 14, the limitation of the claim is the same limitation of claim 5; therefore, the claim is interpreted and rejected as set forth as claim 5.

As to claim 15, the limitation of the claim is the same limitation of claim 6; therefore, the claim is interpreted and rejected as set forth as claim 6.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Kanamori et al (US 6,662,022) teaches portable telephone set.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 571-272-7868. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 30 2005

DANH CONG LE
PATENT EXAMINER